



Global Employer Services Alert

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EPFO clears the air on IW status for returning Indians

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Background

- This alert is in continuation to our previous alert dated 16 June 2017 on the circular issued by PF authorities on the status of an Indian outbound employee deputed to an SSA (social security agreement) country¹.
- While the intent is to do away with the “once an IW, always an IW” norm, the circular dated 8 June did not mirror the intent. The ambiguity was highlighted to the authorities and further clarifications were requested.
- The EPFO has now withdrawn the circular dated 8 June and issued a fresh circular dated 23 June 2017.

Highlights of the EPFO Circular

- The circular clarifies that an Indian employee will be treated as an IW only if he/she satisfies the following two conditions:
 - Has worked or is going to work in a foreign country with which India has entered into an SSA; and
 - Being eligible to avail the benefits under a social security programme of the host country, by virtue of the eligibility gained or going to be gained, under the respective SSA.
- The circular further clarifies that an Indian expatriate employee who, having been an IW as per the above definition, comes back to work in India, will be treated as domestic worker as defined in section 2(f) of the EPF & MP Act and will not be IW as defined under para 83(2)(ja)(a) of the EPF Scheme, 1952.

The implication of the above can be explained through an example.

An Indian employee was assigned to work in Belgium for a period of four years and contributed to the Belgian social security system since he did not have a certificate of coverage (CoC). He would be eligible to the benefits under the Belgian social security system. This employee would be an IW as per Indian PF laws. Prior to the current clarification, the employee would have been tagged as an IW for life. However, with the current explanation, once the individual returns to work in India, he would become a domestic worker and not retain the IW status. Accordingly, the special provisions relating to international workers (non-applicability of wage ceiling etc) will not apply to this employee.

¹ IWU/7/(25)/2017/Clarification reg. Para 83 – Circular dated 8 June 2017

Comments

While there has been no amendment to the provisions of the PF scheme, the circular clearly indicates the intent of the EPFO to do away with the "once an IW, always an IW" tag for returning Indian employees. It spells out in clear terms that even where an Indian outbound employee qualified as an IW by virtue of the definition, he/she would be a domestic worker upon returning to work in India and would not be covered by the IW definition. This is a welcome step and a respite to the Indian industry which is seeing increasing moves from India.

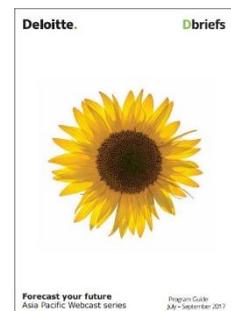
Source : IWU/7/(25)/2017/Clarification reg. Para 83 – circular dated 23rd June 2017.

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